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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1994*

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
INITIAL REPORT ON THE CROWN DEPENDENCY: ISLE OF MAN

[15 April 1998]

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* The Convention entered into force in the United Kingdom of Great Britain and Northern Ireland on 15 January 1992. Its application was extended to the Isle of Man on 7 September 1994.

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Introduction

1. Information relating to the Isle of Man is set out in annex XII to the core document submitted by the United Kingdom of Great Britain and Northern Ireland in respect of Overseas Dependent Territories and Crown Dependencies (HRI/CORE/1/Add.62). Updated statistics are set out in appendix I to the present report.

2. The position with regard to international human rights legislation is the same as in the United Kingdom. Treaties and conventions dealing with human rights are not incorporated directly into domestic law. Where a change in the law is necessary to implement a treaty or convention the Government promotes legislation to implement it in domestic law in accordance with normal parliamentary procedures. The courts in the Island apply the law, generally in accordance with the principles embodied in treaties and conventions which extend to the Island. Individuals have the right to petition the European Court of Human Rights.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Measures to harmonize national law and policy with the provisions of the Convention

1. Department of Health and Social Security

3. The Department of Health and Social Security is the department of the Isle of Man Government with principal responsibility for the welfare of children. It is developing its welfare services for children in two significant ways. First, it has prepared a five-year strategic plan for child-care services, based upon values and principles agreed with other government departments. The plan reflects relevant principles set out in the Convention.

4. Secondly, the Department plans in 1997/98 to introduce draft legislation which will consolidate and amend existing child-care legislation and make new provision concerning the welfare of children. The new legislation will be based upon the principles contained in the Children Act 1989, in force in England and Wales, with modifications to ensure the needs of children living on the Island are met in the most appropriate way. It is expected that the bill will follow very closely the principles contained in the Convention.

5. The Department also intends to introduce draft legislation which will create a new framework for adoption, based on the same principles as forthcoming legislation in England and Wales, and will seek to give greater safeguards for adopted children, with particular regard to intercountry adoptions. Those principles are in harmony with those of the Convention.

6. Both the five-year strategy and the proposed legislation take full account of developments in best practice, together with recent reports and research, in the United Kingdom. Tynwald established a Commission of Inquiry into Child Care in 1991; the Commission produced two reports, the first in

August 1992 on a particular recent case, and the second in May 1994 with general recommendations for the future development of child-care services. Those recommendations have largely been accepted and also form the basis of the Department's strategy and legislative proposals.

2. Department of Education

7. The Department of Education has responsibility for the education of children. Education is available free of charge at schools provided or maintained by the Department not only for all children of compulsory school age (5 to 16 years), but also for children above that age. Parents have the right, at their own expense, to have their children educated at a school other than one provided by the Department. In addition to tuition, the Department also provides free meals and assistance towards school clothing for children whose parents are on low incomes.

B. Existing or planned mechanisms at national or local level for coordinating policies relating to children and for monitoring the implementation of the Convention

8. Responsibility for policy on matters concerning children does not rest exclusively with one government department. In attempting to develop strategic policies and consult on relevant legislative changes required, an interdepartmental group has been established to coordinate the development of child-care services. When new or amending legislation or new initiatives concerning child care are being considered, consultation takes place between relevant government departments and with any voluntary associations concerned, to ensure that all the implications and consequences of any changes are fully considered. Legal advice is taken where matters affecting the child and the courts or the legal system are under consideration.

9. In these processes full account is taken of the need to comply with the Convention.

C. Publicizing the Convention and this report (arts. 42 and 44.6)

10. Copies of the Convention have been distributed to government departments and to certain voluntary organizations concerned with child care, and are available at certain government offices and at public libraries. Copies of this report will be circulated to the press and other media, and made available at certain government offices.

II. DEFINITION OF THE CHILD

11. In general terms an individual becomes of full age, with full civil rights, at 18 years, being known as a "minor" under that age. 1/ However, other minimum ages apply for certain legal purposes, as follows:

(a) The age of criminal responsibility (under which a child cannot be convicted of a criminal offence) is 10 years; 2/

(b) Persons under 17 accused of criminal offences are tried in special courts of summary jurisdiction called "juvenile courts", 3/ which have special powers and procedures appropriate for children;

(c) The duties of the Department of Health and Social Security in relation to child welfare apply generally to persons under 18 years, 4/ but its powers to take a child into its care, or to assume parental responsibility for a child, are limited to persons under 17 years; 5/

(d) The period of "compulsory school age" lasts from 5 years to 16 years; 6/

(e) A child under 16 years is incapable of being married, and a child between 16 and 18 years may not lawfully be married without a parent's consent, unless the High Court dispenses with such consent; 7/

(f) A child of 16 years or over may consent to medical treatment without a parent's consent; 8/

(g) A child under 17 may not be sentenced to custody unless there are exceptional circumstances; 9/

(h) A child under 18 may not buy alcohol, and may not consume alcohol in licensed premises. A child under 15 is not permitted in a bar of licensed premises; 10/

(i) Sexual intercourse with a child under 16 is a criminal offence, even with the child's consent. A homosexual act with a person under 21 is a criminal offence, even with the person's consent; 11/

(j) A child under 13 may not be employed (except by his parents in light agricultural or horticultural work). Restrictions apply to the employment of persons under 16 (e.g. as to hours of work); 12/

(k) A child under 18 may not generally be enlisted in the regular armed forces. 13/

12. The terminology used varies according to context. "Child" is normally used in legislation to signify a person under 14 (though in certain contexts it can mean someone under 18); "young person" means someone 14 or over but under 17. "Minor" always refers to a person under 18. In this document "child" has the same meaning as in the Convention, i.e. a person under 18 (see art. 1).

III. GENERAL PRINCIPLES

A. Legislation

13. The principal legislation concerning the welfare of children is contained in the Children and Young Persons Acts 1966 and 1969, as amended, and the Family Law Act 1991.

14. The Children and Young Persons Acts deal with the following matters:

(a) The protection of children from harm by imposing criminal penalties for cruelty, abuse and neglect;

(b) The duties of the Department of Health and Social Security to promote the welfare of children, with power in appropriate cases to take children into its care or under supervision, or to assume parental responsibility for them;

(c) The powers of the courts to order that a child in need of care and protection, or involved in criminal activities, be placed in the care of the Department of Health and Social Security or under its supervision;

(d) Legal restrictions on the employment of children;

(e) Special arrangements for the protection of children involved in police investigations and criminal or other court proceedings;

(f) The provision and supervision of accommodation for children in need.

15. The Family Law Act 1991, in combination with other legislation relating to matrimonial proceedings, lays down general principles and procedures relating to:

(a) Parental responsibility for children;

(b) The appointment of guardians for children to act in the place of their parents;

(c) The duty of courts, in dealing with children's upbringing, to treat their welfare as the paramount consideration;

(d) The resolution of disputes between parents over custody of and contact with their children and other questions concerning their upbringing;

(e) Orders against parents to make provision for the maintenance of their children.

16. Other matters relating to children are governed by:

(a) The Education Acts 1949 to 1988;

(b) The Child Life Protection Act 1959 (which relates to fostering);

(c) The Nurseries and Child-Minders Regulation Act 1974;

(d) The Adoption Act 1984; and

(e) The Summary Jurisdiction Act 1989 (which deals, inter alia, with criminal proceedings against children).

17. Copies of relevant provisions of the legislation referred to above are appended to this report*.

18. Proposals for the revision of the Children and Young Persons Acts were made between 1988 and 1991, but progress was delayed pending the outcome of the Commission of Inquiry into Child Care (see para. 6 above). Following the acceptance of the Commission's report by Tynwald in May 1996, work has now resumed on draft legislation (see para. 4 above).

B. Non-discrimination (art. 2)

19. The law relating to children, and the facilities and services provided by the State, apply equally to all children resident on the Island without discrimination. All cases involving children are dealt with without regard to the parents' or guardians' status, activities, expressed opinions or beliefs except so far as they are relevant to the child's welfare.

C. Best interests of the child (art. 3)

1. Courts of law

20. The law requires all courts, in dealing with questions concerning children's upbringing, to treat their welfare as the paramount consideration. 14/ In criminal proceedings, in particular when imposing sentences, courts take account of a child's circumstances and needs, and are normally required to have an independent report on him, prepared by a social worker.

2. Department of Health and Social Security

21. The Department of Health and Social Security has a duty to promote the welfare of children. Its policy is that a child for whose welfare it is concerned should remain with his family, so long as it is in his best interests to do so.

22. Where a child is put in its care by a court order, the Department will place him in suitable accommodation (which may be with his family, with foster parents or in a children's home) according to its assessment of his best interests. While there, he will be treated as an individual, respected as a human being and given a level of care that meets his needs.

23. The Department, so far as is possible, aims to ensure that all its child-care services comply with what is accepted as best practice in the United Kingdom. In all cases it aims to ensure that all its child-care services comply with the best standards of safety, fire prevention and environmental health as well as professional standards of child care. Residential and day-care establishments are inspected to ensure that proper standards are maintained.

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* Available for consultation at the Secretariat.

3. Department of Education

24. The principle of the best interests of the child is inherent in all the Department of Education's legislation and policies. The Department seeks to ensure that its establishments comply with best standards of health and safety, and that pupils and students, in the course of work experience as well as ordinary education, are not exposed to unacceptable risks.

D. The right to life, survival and development (art. 6)

25. Like the United Kingdom, the Isle of Man fully accepts that every child has the inherent right to live. The Department of Health and Social Security is responsible for the provision of a national health service, and seeks to ensure that that service, so far as it relates to children, is as comprehensive as possible. All health services are provided free of charge to all children under 16 years, and to children over that age who are still at school.

26. Children in the care of the Department of Health and Social Security (whether with the parents' consent or under a court order) have their needs assessed, and individual care plans are prepared with the object of ensuring that they develop to their maximum potential, addressing any areas where they have special difficulties.

27. The Department of Education is required by law to provide sufficient schools to afford all pupils with opportunities for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities and aptitudes.

E. Respect for the views of the child (art. 12)

1. Courts of law

28. The law requires all courts, in resolving disputes concerning a child's upbringing, to have regard to his ascertainable wishes and feelings, considered in the light of his age and understanding. 15/ Furthermore, where the circumstances of the case require it, in many proceedings relating to a child a guardian ad litem may be appointed to ensure that the child's wishes and interests are ascertained and brought to the attention of the court.

2. Department of Health and Social Security

29. The Department of Health and Social Security, in deciding what is in the best interests of a child for whose welfare it is concerned, will take account of the child's wishes, with proper regard to his age and understanding, particularly when holding planning meetings or case conferences concerning the child.

3. Department of Education

30. The Department of Education, in providing educational services, seeks to ascertain the views of pupils and students in relation to those services. Before disciplinary steps are taken in relation to a child at school, he is to be heard by those responsible.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

31. Manx law requires the birth of a child to be registered within 42 days of its birth. 16/ Its name, which may be registered, will normally be given by its parents at birth. A new or additional name may be given at baptism, by common usage or by deed; if given within 12 months of the registration of the birth, the new or additional name may be registered.

32. A child born in the Isle of Man to a parent who is a British citizen or settled in the Isle of Man or the United Kingdom acquires British citizenship automatically. A child born in the Isle of Man who does not become a British citizen at birth is entitled to be registered as a British citizen if one of his parents becomes a British citizen or becomes settled in the Isle of Man or the United Kingdom. He is also entitled to registration once he has reached the age of 10 if he has spent no more than 90 days outside the Isle of Man and the United Kingdom in each year of his life, and may in any case be registered as a British citizen at the discretion of the Secretary of State. 17/

33. The same rules to reduce statelessness apply in the Isle of Man as in the United Kingdom. 18/

B. Preservation of identity (art. 8)

34. A child's name may not be changed without the agreement of every person who has parental responsibility for him or an order of a court.

35. A child who acquired British citizenship by birth or adoption cannot be deprived of it. If he acquired it by registration, he can only be deprived of it in limited circumstances, principally where it was acquired by fraud or deception.

C. Freedom of expression and association (arts. 13 and 15)

36. It is a fundamental principle of Manx law that a person, including a child, is entitled to do anything unless it is specifically forbidden by law. Therefore children have the full rights set out in articles 13 and 15, subject only to the restrictions necessary to secure their welfare and protect the rights of others, e.g. criminal penalties for offences against public order.

D. Access to appropriate information (art. 17)

37. Access to information within the scope of article 17 is available through free public libraries to which children have full access, and at

school libraries in the case of children at school. The Department of Education's school curriculum encourages children to make the fullest use of all possible sources of appropriate information.

38. Licensing controls on local radio stations 19/ seek to ensure that material injurious to children is not broadcast at times when they may be listening. (There are no local television stations in the Isle of Man: television and national radio programmes are broadcast from the United Kingdom and are subject to control by the United Kingdom Government.)

39. The publication of obscene material of any description is prohibited by law. 20/ A system of licensing of cinemas includes restrictions on the admission of children of certain ages to cinemas showing films classified as unsuitable for them. 21/ Legislation also now regulates, by a scheme of classification, the supply of video recordings to children. 22/

E. Freedom of thought, conscience and religion (art. 14)

40. Every person in the Isle of Man has the right to freedom of thought and conscience and religious freedom, subject only to such limitations as are prescribed by law and are necessary to protect the rights and freedoms of others. There is no compulsory State religion, and there is complete freedom of religious worship without any restriction on a person's right to change his religion.

41. The parents of a child have the right to determine his religious upbringing. Where a child is in the care of the Department of Health and Social Security, he may not be brought up in a religion in which he would not have been brought up if he had not been in its care. 23/

42. While religious education of a mainly Christian character is provided at all schools provided by the Department of Education, the syllabus may not advance any particular denomination's formulary, and parents have the right to withdraw their child from religious worship or religious education. 24/

F. Protection of privacy (art. 16)

43. Manx law does not provide a statutory right of privacy, but children are afforded the same protection as adults under the general law, e.g. on interference with correspondence and misuse of computerized information.

G. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (2))

44. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment extends to the Isle of Man, and is given effect in Manx law. 25/ It applies to children as well as to adults. Courts in the Isle of Man have no power to order any form of cruel or degrading treatment or punishment for young offenders.

45. Reasonable corporal punishment by, or with the consent of, a child's parent is not unlawful. However, persons looking after children in the care of the Department of Health and Social Security are not permitted to

administer corporal punishment. It may be carried out, subject to strict safeguards, in schools provided or maintained by the Department of Education. The higher criminal courts have power to impose a sentence of corporal punishment on a male offender aged 10 or over but under 17 (under 21, in the case of an offence of assault causing actual bodily harm), but the power has not been exercised since 1976. 26/

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

46. Manx law recognizes that generally parents are the best people to bring up their children, and confers exclusive rights and duties on them for that purpose ("parental responsibility"). 27/ They may not be deprived of parental responsibility, or forced to share it with the State or others, without an order of a court of law.

B. Parental responsibilities (art. 18, paras. 1-2)

47. Parental responsibility is normally vested in the parents of a child if they are or have been married. If they are not and have not been married, the mother has parental responsibility alone, although the father may acquire parental responsibility by agreement with the mother or by a court order. It lasts until the child is 18 years old. The parents may not be deprived of parental responsibility except by adoption, but may be required to share it with others, e.g. with the person with whom the child is to live under a residence order, or with the Department of Health and Social Security if the child is placed in its care by order of a court. 28/

48. The statutory functions of the Department of Health and Social Security and the Department of Education are intended to support parents in the exercise of their parental responsibility in securing the welfare and education of their children.

C. Separation from parents (art. 9)

49. Manx law does not permit a child to be separated from his parent except with the parent's agreement or by a decision of a court of law. Where a child under 17 is harmed or in danger, the police or Department of Health and Social Security may take him to a place of safety by order of a magistrate, but he must be brought before a court without delay. Also, the Department of Health and Social Security may apply to a court where a child under 17 is in need of care, protection or control. In such a case the court may place the child in the care of the Department of Health and Social Security. 29/ A juvenile court may also place a child in the care of the Department in criminal proceedings against the child (see para. 105 below). The child and the parents are entitled to be represented and heard in any such proceedings.

50. Where a parent is in custody by order or sentence of a criminal court, he normally has the right to have contact with and be visited by his spouse and children. 30/

51. Where parents live apart, whether on divorce or otherwise, the law allows them to determine with whom their children should live. In case of dispute a court of law may make a "residence order" stating with which parent a child should live, and a "contact order" stating what contact the other parent is to have with him. In exceptional cases the court may order that the child be placed in the care of the Department of Health and Social Security. 31/

52. Where a child is placed in the care of the Department of Health and Social Security, his parents will not be deprived of contact with him unless that is in the child's interests.

D. Family reunification (art. 10)

53. Provision is made in the Isle of Man similar to that in the United Kingdom for children to join their parents where the latter are resident in the Isle of Man, though there is no absolute right of immigration. There is no restriction on children leaving the Isle of Man to join their parents, unless a court has made an order restricting travel, e.g. where a child is to live with one parent to the exclusion of the other.

E. Recovery of maintenance for the child (art. 27, para. 4)

54. Provision is made in Manx law under which one parent can apply to a court for an order against the other for the payment of maintenance for their children, either alone or in the course of other matrimonial proceedings. 32/ Where the Department of Health and Social Security has a child in its care, whether with the parents' agreement or under a court order or where it has assumed parental responsibility, it may apply to a court for an order that a parent of the child contribute to his maintenance. 33/ Furthermore, where the Department pays supplementary benefit to one parent for the maintenance of a child, it may in appropriate cases recover the cost from the other parent. 34/

55. Arrangements are in force 35/ under which, on application to a court, maintenance in respect of a child in the Isle of Man can be recovered where the responsible parent is abroad, or vice versa, under bilateral and multilateral agreements with other States, including the United Nations Convention on the Recovery Abroad of Maintenance and the Hague Convention on the Recognition and Enforcement of Decisions relationg to Maintenance Obligations.

F. Children deprived of a family environment (art. 20)

56. Where a child has no parent, or is abandoned or lost, or his parents cannot look after him, the Department of Health and Social Security is under a duty to take him into its care. 36/ In most cases such a child will be placed with foster parents in a normal family setting. In certain cases the child might be accommodated in a children's home. Including children in the care of the Department by virtue of a court order (see para. 49 above and para. 105 below), the Department currently (July 1997) has 93 children in its care, of whom 50 are fostered, 19 are in children's homes, 24 are with their own families or (if old enough) living alone, and 2 are temporarily in the United Kingdom for assessment. In any case the Department will try to return

a child to his own family as soon as possible. Foster parents are always thoroughly assessed by the Department before they can accept children. Reviews of the children placed in their care are held every six months. Under forthcoming legislation it may be possible for arrangements to be made for such a child to be placed with a member of the wider family or a suitable friend.

57. The Department contracts with two voluntary organizations for the provision in the Island of residential care for children. The National Children's Home provides eight residential places for young people who have either offended or who have emotional and behavioural problems. The Isle of Man Children's Home provides seven places for young people with emotional and behavioural problems of a lesser degree. The homes are inspected and monitored by the Department.

58. In a very few cases, usually where a child is placed in the care of the Department by a court following conviction of a criminal offence, the child's needs cannot be met in the Island, and with the leave of a court he will be placed in a specialist unit in England. This will usually be for a limited period during which the child's problems can be assessed and resolved, after which he will return to the Isle of Man.

G. Adoption (art. 21)

59. Adoption of children is provided for by the Adoption Act 1984. An adoption order, which can only be made by a court, transfers parental responsibility (see sect. B above) from the child's natural parents to the adoptive parents. Reciprocal arrangements are in force under which persons in the Isle of Man can adopt a child from another country, and vice versa. An adoption order may only be made after full and independent investigation of the needs of the child and the circumstances of the natural and adoptive families, and the consent of the natural parents is required unless the court determines that it is being unreasonably withheld. The child's views will be taken into account if he is old enough to express them.

60. It is expected that reforms of adoption law will be introduced in the next two years, in line with similar reforms which will be made in England and Wales, principally to give effect to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

H. Illicit transfer and non-return (art. 11)

61. Both the Hague Convention on the Civil Aspects of International Child Abduction and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoraton of Custody of Children extend to the Isle of Man, and are given effect in Manx law by the Child Custody Act 1987. That Act also gives effect to bilateral arrangements with the United Kingdom on jurisdiction relating to, and the recognition and enforcement of, custody orders.

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

62. Manx law seeks to protect children from harm by imposing severe criminal penalties for cruelty, abuse or neglect. 37/ In addition, the police have special powers to arrest suspected offenders, and to take steps to protect children, in any case involving harm or injury to a child, and courts dealing with such offences have special powers. 38/

63. Public authorities dealing with matters which may involve abuse or neglect of a child are required to observe special procedures, devised by the interdepartmental Child Protection Committee with the agreement of all authorities and agencies concerned involved in child care, and taking account of best practice in England and Wales. The Isle of Man Government recognizes the need to take all possible steps to prevent, or otherwise to identify and prosecute, abuse and neglect of children.

64. The Department of Health and Social Security holds a register which lists all the children who are considered to be at risk of abuse; an inter-agency plan is prepared with a view to protecting each child on the register. A child is entered on the register as a result of a child protection conference, which will decide whether the child is in danger of abuse. All entries on the register are reviewed every six months. In an appropriate case the Department of Health and Social Security will apply to a court for an order placing such a child in its care as being in need of care, protection or control. 39/

65. As well as being involved in the interdepartmental arrangements outlined above, the Department of Education requires the schools provided or maintained by it to take appropriate steps if abuse or neglect of children is suspected, and also seeks to prevent exploitation of children by employers in the exercise of its responsibilities in relation to the employment of children (see para. 116 below).

J. Periodic review of placement (art. 25)

66. Whenever a child is received into the care of the Department of Health and Social Security, a planning meeting is held involving all concerned in his care (including his parents, unless there are special circumstances), and a care plan is prepared, setting out the child's problems and proposals for dealing with them. That plan is reviewed at a further meeting at least every six months, but more frequently if need be. The child (if old enough) and the parents are encouraged to attend such review meetings.

67. Where a child is detained for treatment for mental disorder, his case is regularly reviewed. The Department of Health and Social Security is required to make special arrangements for him to be visited. 40/ New draft legislation to replace the existing mental health legislation has now been introduced, which will provide better safeguards for patients of all ages, in particular more frequent reviews of a patient's detention.

VI. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2)

68. Childhood immunization is provided free of charge under the national health service in respect of diphtheria, tetanus and whooping cough (DTP combined vaccine), measles, mumps and rubella (MMR combined vaccine) and poliomyelitis. The social services and health services of the Isle of Man work closely together to ensure that children in whose welfare the Department is concerned receive appropriate medical and other services necessary for their development. For infant mortality see paragraph 77 below.

B. Disabled children (art. 23)

69. The policy of the Department of Health and Social Security for disabled people in general is that they should have as normal a life as possible, and that, whenever possible, children with a physical or mental disability should grow up with their own families. For this purpose the Department, in conjunction with local voluntary organizations, provides a wide range of services to achieve this objective. It is under a legal obligation to inform itself of disabled persons and their needs, and to make reasonable arrangements to meet those needs free of charge. 41/ Where children with disabilities cannot live at home, the Department prefers to place them with suitable foster parents rather than in an institution, and recruits foster parents who can provide either full-time or respite care for such children. For other cases the Department provides a four-place residential unit with an attached four-place respite-care facility for children. A purpose-built facility is soon to be developed to meet the needs of disabled children in need of care.

70. The Department of Education is required by law to make provision free of charge for children with special educational needs of all kinds. 42/ The Department's curriculum is designed to provide the best means of ensuring that all pupils, including the disabled, have opportunities for development and success in education.

C. Health and health services (art. 24)

71. A comprehensive range of free health services of the highest standard is available for all children under the national health service. The Department of Health and Social Security is required by law to provide a full range of health services, including hospital and specialist services (including mental health services), general medical services, dental, ophthalmic and pharmaceutical services, home nursing, health visiting, midwifery and immunization, all of which are provided free of charge for children. 43/ The policy of the Department is to provide services which are of at least the same standard as are provided by the national health service in the United Kingdom. Medical staff are obliged to hold the same qualifications as are required in the United Kingdom.

72. A complete review of the legislation and organization of the national health service is currently being undertaken by the Department, and is expected to be completed in 1997. The review does not cover mental health, which is the subject of current legislation.

1. Antenatal and post-natal care

73. Antenatal and post-natal health care of the child is provided by midwives, medical practitioners and health visitors. Midwives remain involved throughout pregnancy and up until about the tenth day after the birth, after which health visitors take over responsibility. They are required to visit all newborn babies, advising parents about child development, immunization, vaccination, feeding and other aspects of child health. Periodic checks take place during the pre-school life of the child to monitor the child's health, growth and overall development. Such checks are normally undertaken by either the family doctor or the health visitor, at either the child's home or the doctor's surgery.

74. For immunization, see paragraph 68 above.

2. School health service

75. The Department of Health and Social Security has a statutory obligation to provide free medical and dental inspections and, if required by the parent, treatment for all schoolchildren attending primary and secondary schools maintained by the Department of Education. 44/ Continued education and the possible introduction of fluoride into the Island's water supply may eventually lead to an improvement in the situation. However, the overall dental health of children in the Isle of Man puts them amongst the bottom 25 per cent in the British Isles. The medical screening of schoolchildren is carried out by school nurses who are specially trained registered nurses working in schools to promote the health and well-being of the child.

3. Hospital paediatric service

76. Most neonates, babies and children requiring hospital treatment are able to be treated in the Isle of Man by its resident and visiting medical staff, supported by specially trained nursing staff. If a child requires treatment at a specialist hospital in the United Kingdom he is transferred there for treatment and returned to the Island afterwards, all at the expense of the Department of Health and Social Security. The child may be accompanied by one or both parents, also free of charge.

4. Infant mortality

77. Infant mortality on the Island has fallen from 20.5 deaths per 1,000 live births in 1970 to 6.4 deaths per 1,000 live births in 1992 (the United Kingdom equivalent is 6.6 deaths per 1,000 live births in 1992).

5. Health education

78. The Department of Education's school curriculum includes appropriate instruction in health matters at all levels of children's education.

D. Social security and standards of living (arts. 26 and 27)

79. The Isle of Man Government, through the Department of Health and Social Security, provides, through the social security system, a comprehensive system of financial support and assistance to families with children. The cornerstone of the system is child benefit, a universal non-means-tested, non-contributory benefit which is payable to the parents (normally the mother, as the primary carer) of each child who is either under 17, or over 17 and at school, at three flat rates (the lowest for children of pre-school age, the highest for children over 17 and still at school). A person bringing up a child alone is entitled to an additional amount of benefit.

80. Wherever a person receives any contributory social security benefit (e.g. job-seeker's allowance), he is entitled to additional amounts for each dependent child. There is also a special benefit payable to those who assume the care of an orphan.

81. However, the main help with general living expenses for low-income families with children is through supplementary benefit and family income supplement. Supplementary benefit is an income-related benefit payable to people who do not work full-time and whose income from all sources is below a specified level, fixed by reference to the family's requirements. The calculation of requirements takes account of each child, with particular regard to housing, and to requirements in special cases (e.g. for heating, where a child is under five years). There is a system of single payments to help with specific expenses in exceptional circumstances.

82. Family income supplement is an income-related benefit primarily for employed or self-employed people with children, who work 16 or more hours a week. This extra financial help is payable to couples and single parents, and enables low-income working families to improve their standard of living by a combination of wages and benefits. An improvement to family income supplement, introduced in October 1996, provides additional help with child-care costs, which will increase the incentive for unemployed parents to be in work.

83. The Isle of Man Government provides training, education and employment for young people, with support through the benefit system. The aim is to provide young people aged 16-17 with training so that they need not begin adult life dependent on benefits. Those unable to receive training, e.g. single parents and disabled persons, can get supplementary benefit, and provision is made to prevent young people suffering hardship until they get a job or training place.

84. Where the Department's social workers are concerned with the welfare of children or their families, they help them obtain the benefits to which they are entitled.

85. The Department of Education gives some assistance to children at school by way of free meals and the provision of school uniforms.

E. Child-care services and facilities (art. 18, para.3)

86. The Department of Health and Social Security does not directly provide day-care facilities for under-fives but is responsible for the registration and inspection of childminders, nurseries and playgroups. It is believed that the private sector on the Island provides sufficient places to meet the day-care needs of children. It is intended that forthcoming legislation (see para. 4 above) will enable day-care facilities to be more effectively monitored.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

1. Primary and secondary education

87. The Department of Education is responsible for the provision of compulsory free primary and secondary education for all children from 5 years to 16 years, and voluntary secondary and further education above that age. The Department's National Curriculum ensures that, on reaching the end of compulsory education, children have developed the qualities and skills needed in adult and working life. Appendix II to this report contains details of the numbers of children receiving full-time education in the Department's schools.

88. Vocational awarding bodies are developing new vocational options for children under 16 years. The Department has taken note of these developments and is considering the introduction of NCVQs (National Council for Vocational Qualifications) courses into schools as part of the curriculum for pupils of 14-16 years.

89. The Department attaches considerable weight to the regular attendance at schools of pupils of compulsory school age. To that end, the Department employs two attendance officers who work closely with all the schools on the Island to combat truancy and drop-outs.

2. Further and higher education

90. Pupils over 16 years may either remain at secondary school or attend the Isle of Man College. The Department of Education is committed to increasing the proportion of 16 to 18-year-olds in further education and improving their levels of attainment.

91. The Department is committed to ensuring that higher education in the Isle of Man or elsewhere is available to those who are suitably qualified. Most students seeking higher education attend universities and colleges in the United Kingdom. Full-time students have their tuition fees paid in full and receive a means-tested maintenance grant. Guidance and information on courses in higher education is available from a range of sources including careers staff in the schools and the Department's Careers Officer. Higher education institutions make comprehensive information widely available to schools and the Isle of Man College. The Department annually publishes guidance about student grants and loans.

92. In order to increase higher education opportunities for students in the Isle of Man, the Department has recently entered into an agreement with the University of Liverpool for the development of higher education in the Island. The first course to be developed will be a Master of Business Administration degree, and will be followed by further courses relevant to the business community. It is intended to develop other undergraduate courses in areas of Business and Finance, Information Technology, Engineering, Art and Design, and Hospitality and Catering. Students enrolling on these full-time undergraduate courses will be able to begin their degree studies at the College either by following a Higher National Diploma course or enrolling directly in the first year of a degree itself. Students will then progress direct to the University of Liverpool to complete their degrees. Additionally, it is planned to develop part-time courses on the Island in Engineering, Business and Finance and Business-related courses.

93. The University's programme of continuing education courses will also play an important role in improving access to higher education. Already very popular with Isle of Man students, these part-time courses have become a pathway to degree-level study following the introduction of credits.

94. In terms of international cooperation and assistance, the Department has forged links with educationalists and institutions in the former USSR and in Nepal. Financial assistance of a voluntary nature has been raised to support a school project in the case of the latter country. Personnel have been exchanged with the former USSR.

B. Aims of education (art. 29)

95. The legal duties of the Department of Education, which are fulfilled by its educational policies and the National Curriculum, are to promote, in schools maintained by it, the spiritual, moral, cultural, mental and physical development of pupils. The National Curriculum also seeks to contribute to their international understanding, preparation for adult life and respect for human rights and the natural environment, and provides opportunities for children to develop an understanding of the world, the societies and civilizations other than their own through a range of subjects, but particularly through history and geography. Respect for the child's parents and his own cultural identity is fostered through Religious Education, Personal and Social Education and opportunities to learn about the Isle of Man and its indigenous language.

C. Leisure, recreation and cultural activities (art. 31)

96. The Department of Education recognizes that good play and leisure facilities are conducive to children's all-round development. Physical education is taught systematically through all of the Department's primary and secondary schools as part of the National Curriculum. The Department allows all of its school grounds to be used by pupils out of school hours for sport and play. In addition, its school buildings have been designed to permit use for leisure purposes out of school hours.

97. The Department of Education has a strong Youth and Community Service and an active team of youth workers, who are responsible for a total of 17 youth

clubs maintained by the Department. The Department operates eight youth centres across the Island, and has recently redeveloped a major Youth and Community Centre in Douglas.

98. Apart from facilities at schools, the department principally responsible for leisure and physical recreation is the Department of Tourism and Leisure. The Department seeks to provide and promote access and opportunities for the Island community and visitors to participate in sport, leisure and recreation. Children and young people are especially targeted in the promotion of sporting and leisure opportunities.

99. The Department is currently developing a new £20 million National Sports Centre, which is highly accessible to children, both through schools and clubs and individually. Participation in sport by all sections of the community, including children, is actively promoted through the Sports Development Programme, with the parallel objective of assisting in the achievement of sporting potential. The Isle of Man Sports Council, under the aegis of the Department, promotes sporting excellence at a competitive level; resources are actively targeted at young people.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (art. 22)

100. Provision for refugee children from other countries is undertaken by the United Kingdom Government, which is responsible for the external relations of the Isle of Man.

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

101. Responsibility for these matters is undertaken by the United Kingdom Government.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

102. Manx law requires any court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, to have regard to his welfare and, in a proper case, take steps for removing him from undesirable surroundings and for securing that proper provision is made for his education and training. 45/

103. It is a fundamental principle of the criminal justice system that a person is innocent until proved guilty. This applies equally to both children and adults. In addition, a child under 10 years is incapable in law of committing a criminal offence and may not be dealt with under the criminal law. 46/ An accused person cannot be compelled to give evidence or to confess his guilt, but has the right (in person or by an advocate) to examine witnesses for the prosecution and the defence on conditions of equality.

104. All children under 17 charged with an offence are first brought before a court, normally a special court of lay magistrates known as a "juvenile court", which will normally deal with the case, although a person of 14 or over will be committed to an ordinary court comprising a judge or judge and jury in cases of homicide or offences carrying a penalty of 14 years' custody or more, or where a person of 17 or over is jointly charged. 47/ Where a child under 17 committed to an ordinary court for trial, he is to be released on bail except in cases of homicide. 48/ Courts can require the parents to attend also. 49/ All such children have a right to legal representation, which is provided free of charge for those who cannot afford it. 50/ The name, address, school or any other identifying particulars of a child brought before a juvenile court may not be published in a newspaper or other media. 51/ A child convicted of an offence has a right of appeal against conviction and, in certain cases, against sentence. A final appeal lies, with leave, to the Judicial Committee of the Privy Council, if it is certified that a point of law of general public importance is involved.

105. As well as custodial sentences, which are rarely imposed, a wide range of non-custodial orders is available for sentencing children. These include care orders and supervision orders (placing the child in the care, or under the supervision, of the Department of Health and Social Security), community service orders, probation orders and combination orders (conbining a probation order and a community service order). Appendix III to this report gives details of numbers of children the subject of criminal proceedings and how they have been dealt with.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

106. It is possible for a court, in exceptional circumstances and where no other option is appropriate, to sentence a child aged 10 or over and under 17 to a period of custody. 52/ The courts are reluctant to sentence juveniles to custody and regard it as to be used only after all other sentences have been tried. Custody is imposed on juveniles less than five times a year on average (see Appendix III). The maximum term of custody which a juvenile court may impose is six months; unless additional days are imposed for bad behaviour while in custody, a person detained for such a term must be released unconditionally after serving half the term. 53/

107. In recent years, the Isle of Man Government's policy on young offenders has concentrated on diverting young people away from crime and discouraging imprisonment and criminalization of young people convicted of offences. During the late 1980s there was a substantial decline in the use of custody for juveniles. The focus has been instead on cautioning and community sentencing. It is recognized that delaying the entry of a young person into the criminal justice system may help prevent his entry altogether, and the majority of children who admit their offence are cautioned, rather than brought to court.

108. A child aged 10 or over and under 17 who is in the care of the Department of Health and Social Security may be placed in "secure accommodation" if certain conditions are satisfied: he has a history of

absconding; he is likely to abscond from any other type of accommodation; if he were to abscond, he is likely to suffer significant harm or to injure himself or others. 54/ No request for such a placement has yet been made.

3. Arrest and detention

109. Whenever a child under 17 is arrested, his case must be inquired into by a senior police officer, and he must be either brought before a court forthwith or released on bail; he may however be kept in custody until he can be brought before a court if either he is charged with murder or some other serious crime, or he must be kept away from criminals, or his release would defeat the ends of justice. 55/ A child under 17 who has been arrested without warrant must be brought before a court of summary jurisdiction within 72 hours, unless that is impossible by reason of illness or accident. 56/ All persons in police custody are dealt with expeditiously, and released as soon as the need for detention has ceased.

110. Police procedure, where a child under 17 is arrested, requires his parent or other person responsible for his welfare to be identified and informed of the arrest and the grounds for it as soon as possible, and asked to attend at the police station to see him. He cannot normally be interviewed or asked to provide or sign a written statement unless the parent is present. He is not to be placed in a police cell unless no other secure accommodation is available, and may not in any case be placed in a cell with an adult. No intimate search may take place except in the parent's presence. He has the right to legal advice and assistance, and may consult privately with an advocate.

111. It is intended to introduce draft legislation shortly to replace the existing police powers of arrest and detention of suspects with provisions based on the United Kingdom's Police and Criminal Evidence Act 1984.

4. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

112. There is no death penalty in the Isle of Man.

113. Under Manx law offences of treason and murder carry a mandatory sentence of custody for life; certain other offences, e.g. manslaughter and rape, carry a maximum sentence of custody for life or for a fixed term at the discretion of the court. A child under 18 years at the time of the offence may not be sentenced to custody for life, but is instead sentenced to detention during Her Majesty's pleasure. Such a person is detained for such period and under such conditions as the Department of Home Affairs (or, if he is transferred to an institution in the United Kingdom, the Secretary of State) directs. He may be released on licence, subject to conditions, on the recommendation of the Parole Committee.

5. Physical and psychological recovery and social reintegration (art. 39)

114. The Department of Health and Social Security provides therapeutic services to help children who have been abused recover from their experiences.

Two social workers have post-graduate qualifications in working with children who have been abused. In addition, the Department will if necessary purchase other specialist and psychological services for such children.

C. Children in situations of exploitation

1. Economic exploitation, including child labour (art. 32)

115. The United Kingdom's reservation on the application of article 32 to children of 16 years or over extends to the Isle of Man; restrictions on the employment of children apply only to children under that age.

116. A child under 13 may not be employed (except by his parents in light agricultural or horticultural work). Restrictions apply to the employment of children under 16 (e.g. as to hours of work), e.g. no child may work before 7.00 a.m or after 7.00 p.m, or on a school day or Sunday for more than two hours, or on a Saturday or school holiday for more than five hours (if under 15) or eight hours (if 15 or over). 57/ The Department of Education is responsible for enforcing these requirements.

117. Health and safety provisions apply to all workers, irrespective of age. In particular employers are under a duty to conduct their undertakings so as to ensure, as far as reasonably practicable, the health, safety and welfare at work of all their employees. 58/

2. Drug abuse (art. 33)

118. It is a criminal offence in the Isle of Man for a person of any age to possess or supply dangerous ("controlled") drugs. 59/

119. The Department of Health and Social Security, through its health and social services, and the Department of Education, through its schools and the Isle of Man College, aim to educate everyone, especially children, on the dangers of misusing drugs. The Isle of Man Constabulary regularly visit schools to advise pupils, teachers and parents on those dangers.

3. Sexual exploitation and sexual abuse (art. 34)

120. The serious view taken by the Isle of Man of sexual exploitation of children is reflected in the criminal penalties for such activities. Sexual intercourse with a child under 16 is a criminal offence, even with the child's consent, and carries a maximum sentence of seven years' custody; if the child is under 13, it carries a maximum sentence of custody for life. 60/ A homosexual act with a person under 21 is a criminal offence, even with the person's consent, and carries a maximum sentence of seven years' custody; if the victim is under 16, it carries a maximum sentence of custody for life. 61/

4. Sale, trafficking and abduction (art. 35)

121. The procurement of a person of any age to become a prostitute anywhere in the world is an offence under Manx law. In addition, it is an offence to

procure a person of any age to commit a sexual act anywhere in the world. 62/ However, there is no evidence of trafficking in children in the Isle of Man for sexual or other purposes.

D. Children belonging to a minority or indigenous group (art. 30)

122. Approximately half the population of the Isle of Man is of indigenous Manx extraction, the remainder being mostly immigrants from other parts of the British Isles and their families. However, these categories do not form distinct social groups, being practically indistinguishable in race, language, culture and religion, and receive equal treatment before the law and in the provision of benefits and services.

Notes

1/ Family Law Reform (Isle of Man) Act 1971, sect. 1.

2/ Children and Young Persons Act 1966, sect. 45, Children and Young Persons Act 1969, sect. 12.

3/ Summary Jurisdiction Act 1989, sect. 38.

4/ Children and Young Persons Act 1969, sect. 1.

5/ Ibid., Parts III and VI.

6/ Isle of Man Education Act 1949, sect. 65, Education (School Age) Act 1988, sect. 1.

7/ Marriage Act 1984, sects. 2 and 3.

8/ Family Law Reform (Isle of Man) Act 1971, sect. 8.

9/ Custody Act 1995, sect. 2.

10/ Licensing Act 1995, sects. 20 and 23.

11/ Sexual Offences Act 1992, sects. 4 and 9.

12/ Children and Young Persons Act 1969, sect. 15, Employment of Children Byelaws.

13/ Army Act 1955, sect. 2, Air Force Act 1955, sect. 2.

14/ Family Law Act 1991, sect. 1.

15/ Family Law Act 1991, sect. 11 (1) (a).

16/ Civil Registration Act 1984, sects. 3 and 4.

17/ British Nationality Act 1981 (Parliament).

18/ Ibid. (Parliament) Schedule 2.

19/ Under Part I of the Broadcasting Act 1993.

20/ Obscene Publications and Indecent Advertisements Act 1907, sect. 2.

21/ Cinematograph Act 1977, sect. 6.

22/ Video Recordings Act 1995.

23/ Children and Young Persons Act 1966, sect. 92 (3).

24/ Isle of Man Education Act 1949, sects. 54-58.

25/ Criminal Justice Act 1988 (Parliament), sect. 134; SI 1989/983.

26/ Ibid., sects. 14 and 15.

27/ Family Law Act 1991, sects. 2 and 3.

28/ Ibid., sects. 2-4, 14 (2); Children and Young Persons Act 1966, sect. 92 (3).

29/ Children and Young Persons Act 1966, sects. 35, 53; Children and Young Persons Act 1969, sect. 2.

30/ Prison Rules 1984 (GC 63/84), rules 32 and 34.

31/ Family Law Act, sect. 9, Schedule 2.

32/ Family Law Act 1991 Schedule 1, Judicature (Matrimonial Causes) Act 1976, Part II, Domestic Proceedings Act 1983, Part I.

33/ Children and Young Persons Act 1966, sects. 76, 98.

34/ Supplementary Benefits Act 1976, sect. 18.

35/ Maintenance Orders (Reciprocal Enforcement) Act 1995.

36/ Children and Young Persons Act 1966, sect. 82.

37/ Ibid., sect. 1.

38/ Ibid., sects. 11, 12, 35-38, 54, 59.

39/ Ibid., sect. 53, Children and Young Persons Act 1969, sect. 2.

40/ Mental Health Act 1974, sects. 9, 31.

41/ Chronically Sick and Disabled Persons Act 1981, sects. 1 and 2.

42/ Isle of Man Education Act 1949, sects. 63 and 64.

43/ National Health Service (Isle of Man) Act 1948, sects. 3, 16-20, 33-36.

44/ Isle of Man Education Act 1949, sect. 78.

45/ Children and Young Persons Act 1966 sect. 39 (1).

46/ Ibid. sect. 45, Children and Young Persons Act 1969 sect. 12.

47/ Summary Jurisdiction Act 1989 sect. 19.

48/ Children and Young Persons Act 1966 sect. 28.

49/ Ibid. sect. 29.

50/ Legal Aid Act 1989 Part II.

51/ Summary Jurisdiction Act 1989 sect. 41.

52/ Custody Act 1995 sect. 2.

53/ Ibid. Schedule 2.

54/ Children and Young Persons Act 1966 sect. 93 A.

55/ Ibid. sect. 27.

56/ Children and Young Persons Act 1969 sect. 16.

57/ Ibid. sect. 15, Employment of Children Byelaws.

58/ Health and Safety at Work etc. Act 1974 (Parliament sect. 2, applied to the Isle of Man by order under the Health and Safety at Work Etc. Act 1977 (Tynwald).

59/ Misuse of Drugs Act 1976 sects. 4 and 5.

60/ Sexual Offences Act 1992 sect. 4.

61/ Ibid. sect. 9.

62/ Ibid. sects. 17 and 18.

Appendix I

LAND AND PEOPLE

Area		572 sq km
Population (1996 Census)		71,714
Per capita income		£8,536 (1994/95)
Gross national product		£608.5 million (1994/95)
Rate of inflation		3% (1996 average)
Rate of unemployment (1996 average)		Males 4.4% Females 2.1% Total 3.4%
Literacy rate		Assumed 100%
Percentage of population whose mother tongue is English		Above 95%
Infant mortality (based on only 1 and 1 deaths respectively)	Males Females	2.43 per 1,000 (1996) 2.82 per 1,000 (1996)

Age structure of population:

Age last birthday	Total	Per cent
0	766	1.07
1	856	1.19
2	843	1.18
3	829	1.16
4	852	1.19
5	864	1.20
6	865	1.21
7	841	1.17
8	872	1.22
9	836	1.17
10	850	1.19
11	810	1.13
12	835	1.16
13	816	1.14
14	889	1.24
15	859	1.20
16	896	1.25
17	845	1.18
Total under 18	15 224	21.23

Rural/urban population	Rural Urban	27.0% (1996) 73.0% (1996)
Percentage of households headed by women		30.8% (1991)

Sources: Isle of Man Census 1996; Isle of Man Government Economic Statistics.

Appendix II

CHILDREN RECEIVING FULL-TIME EDUCATION IN SCHOOLS MAINTAINED BY THE DEPARTMENT OF EDUCATION

Age group	Number
Primary schools	
Infants (4-6)	2 630
Junior (7-10)	3 418
Secondary schools	
Up to upper limit of compulsory school age (11-15)	4 069
Above upper limit of compulsory school age (16+)	590

Source: Department of Education.

Appendix III

JUVENILE OFFENDERS

Detected crime involving juvenile offenders (under 18)

	1994	1995	1996
Number of offences	611	482	476
Number of juveniles involved	390	323	393

Cautions and prosecutions of juveniles

	1994	1995	1996
"Children" (10-13):			
cautioned	64	68	43
prosecuted	32	43	89
total	96	111	132
"Young persons" (14-17):			
cautioned	109	96	90
prosecuted	185	117	171
total	294	212	261

Juvenile court sentences 1996

Custody	4
Custody (suspended)	2
Fine	51
Care order	1
Community service order	7
Probation orders:	
2 years	3
18 months	1
12 months	29
6-9 months	13
Conditional discharge	62
Absolute discharge	0

Source: Isle of Man Constabulary Annual Reports.